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Monday, 15 November 2004, 10 a.m.
New York

President: Mr. Ping ..... (Gabon)

In the absence of the President, Mr. Chowdhury (Bangladesh), Vice-President, took the Chair.

The meeting was called to order at 10.05 a.m.

Agenda items 50 and 51

Report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Note by the Secretary-General transmitting the ninth annual report of the International Criminal Tribunal (A/59/183)

Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Note by the Secretary-General transmitting the eleventh annual report of the International Tribunal (A/59/215)

The Acting President: At the outset, let me wish all delegates, hearty Eid greetings on the occasion of the holy festival of Eid Al-Fitr.

The General Assembly will now consider, in a joint debate, items 50 and 51 of its agenda.

May I take it that the Assembly takes note of the ninth annual report of the International Criminal Tribunal for Rwanda?

It was so decided.

The Acting President: May I take it that the Assembly takes note of the eleventh annual report of the International Tribunal for the Former Yugoslavia?

It was so decided.

The Acting President: I now call on Mr. Erik Møse, President of the International Criminal Tribunal for Rwanda.

Mr. Møse: It is a great honour to address this distinguished Assembly and to present the ninth annual report of the International Criminal Tribunal for Rwanda (ICTR). The period under review is from 1 July 2003 to 30 June 2004, but this occasion also provides an opportunity to assess the results so far of the third mandate of the Tribunal from 2003 to 2007 in light of the implementation of the Tribunal's completion strategy.

During the period under review, the ICTR delivered five trial judgements involving nine accused. Another judgement was delivered on 15 July 2004. This brings the total number of judgements rendered by the ICTR since the first trial started in January 1997 to 17, involving 23 persons. The next judgement is

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expected in a couple of months. Never before has the judicial output been so high.

In 2003, the Tribunal commenced four new trials involving a total of 10 accused. In 2004, we started three new trials concerning six detainees. Consequently, 25 persons are currently on trial, including those accused whose trials commenced in the second mandate. At present, we therefore have a total of completed and ongoing cases involving 48 persons.

The ongoing trials involving the 25 accused may be divided into two groups: multi-accused and single-accused cases. Five trials are multi-accused cases, comprising a total of 22 persons. These trials are voluminous and complex. They are by necessity time-consuming, because the prosecution and the defence will call a large number of witnesses. I am therefore pleased to report that there has been considerable progress in the *Butare* trial (six accused) and the *Military I* case (four accused). In both trials, the prosecution recently closed its case after having called 59 and 82 witnesses, respectively. The defence teams will commence their cases in January 2005. In the *Government* trial, the third multi-accused case involving four accused, there are only about 12 remaining prosecution witnesses.

The progress in these three multi-accused trials is a significant step towards the implementation of the ICTR completion strategy. Our experience with multi-accused cases shows that the presentation of the defence case usually requires less time than the prosecution case because of less extensive cross-examination. The two remaining multi-accused cases are at a very early stage. The *Military II* trial commenced on 20 September 2004 and has been slowed down by illness. The *Karemera et al.* trial, which started in November 2003, will commence *de novo*, following a recent Appeals Chamber ruling to this effect. These two trials will be given priority in 2005.

Turning now to single-accused cases, they are less complicated than multi-accused trials and require less time. The Tribunal has delivered judgements in three single-accused trials since the presentation of our last annual report. The *Gacumbitsi* trial started on 28 July 2003, and judgement was delivered on 17 June 2004 after 31 trial days. The *Ndindabahizi* case started on 1 September 2003 with judgement on 15 July 2004 after 27 trial days. In the *Muhimana* trial, which commenced on 29 March 2004, the parties closed their respective cases after 34 trial days. Judgement is expected in early 2005. These three recent trials confirm the Tribunal's capacity to complete single-accused cases in less than a year even when the judges sitting in these cases are also conducting multi-accused trials. Let me add that last week the prosecution also closed its case in the *Simba* trial, which started on 30 August 2004.

In order to ensure maximum judicial output, it is important to find the right balance between the multi-accused and single-accused trials. The eight trials currently in progress are taking place in three courtrooms only. This makes our task difficult and requires careful long-term planning. Single-accused cases are normally slotted in when there are breaks in the voluminous trials, so-called twin-tracking, or they are heard in morning or afternoon shifts simultaneously with other trials. We are anxious to ensure the steady progress of the multi-accused trials. Once they are completed, there will be only single-accused cases left.

Let me stress that the workload of the Tribunal's Appeals Chamber is also very significant. During the period under review, four appeals from judgements and 33 interlocutory appeals were filed. In July 2004, the Appeals Chamber delivered judgement in the *Niyitegeka* case. Judgement in the *Ntakirutimana* case will be rendered later this year.

As mentioned in our annual report, the commencement of four new trials in 2003 was due to the arrival of five ad litem judges that year. Security Council resolution 1512 (2003) increased their number to nine. The remaining four ad litem judges arrived in Arusha in September 2004 and made it possible to start two new trials. These nine judges, selected on the basis of the criteria enumerated in the Statute of the Tribunal, form an excellent team together with the nine permanent judges (including one new permanent judge from St. Kitts and Nevis and one from Sri Lanka), and they have already made significant contributions to the Tribunal. I would like to reiterate our appreciation to the General Assembly for having elected a pool of 18 ad litem judges. We also look forward to drawing on the remaining nine ad litem judges when the appointments of the ad litem judges presently in Arusha come to an end.

Based on the progress made during the last year, I am pleased to confirm that the ICTR is on schedule to

complete all trials by 2008, as required by Security Council resolution 1503 (2003). In conformity with that resolution, the ICTR Prosecutor will concentrate on those individuals that are alleged to have been in positions of leadership and to bear the gravest responsibility for the crimes committed. The latest version of our completion strategy, dated 26 April 2004, is contained in document S/2004/341, and I refer delegations to that document for further information. On 23 November 2004, the Prosecutor and I will meet in the Security Council and present our six-month assessment of the implementation of the completion strategy, in accordance with Council resolution 1534 (2004).

Even though we are on schedule, there are dark clouds on the horizon. The ICTR can comply with the time frames established in the Security Council resolution only if it is provided with sufficient resources. Unfortunately, certain Member States have failed to pay their contributions to the two ad hoc Tribunals. As a consequence, the Controller has frozen the recruitment of new staff to the Tribunals. So far, that has not had any significant effect on the ICTR completion strategy. We have been able to keep the trials going, but the situation is becoming critical. More than 80 staff members have left the Tribunal since the freeze was imposed, and the number of vacancies is increasing every month. Many vacant posts are directly linked to the judicial production of the ICTR.

Let me provide some illustrations. As of today, there are nine vacant posts for legal officers in the three Chambers, the recruitment for which has been put on hold as a consequence of the freeze. Those nine legal officers would have worked under the direct supervision of the judges. Several permanent and ad litem judges have no associate legal officers. The judges are now sharing legal officers through ad hoc arrangements. This situation cannot continue.

The Prosecutor's office is also faced with serious problems. In the Appeals section, 5 out of 11 legal posts are vacant. There are 16 vacancies in the Trial section, greatly reducing the capacity of the nine trial teams. The Registry's ability to provide support to the judicial process is also affected. Furthermore, the lack of resources affects the defence teams.

It is a paradox that indispensable financial contributions are not paid when the Tribunal is doing its utmost to complete its task. We cannot maintain the speed if the brakes are on. A slowing down of the judicial process may also mean that Member States have to pay their contributions for longer periods of time. As stated in our annual report, the Tribunal strongly recommends that it continue to receive sufficient resources to enable it to comply with the deadlines set by the Security Council.

The Tribunal appreciates the cooperation of the Rwandan authorities. Last year I reported that there had been a steady flow of witnesses from Kigali to Arusha. I am pleased to state that the situation remains the same. On request, we are also receiving documentation from the judicial proceedings in Rwanda in order to evaluate fully the credibility of our witnesses. That is important to the integrity of the proceedings in Arusha. Let me stress that both parties — the prosecution and the defence — must receive the necessary assistance to carry out their investigations in Rwanda.

There are 17 indicted persons who remain at large and who continue to evade justice. Some of them are alleged to have been the architects of the events in Rwanda in 1994. The Tribunal calls on those States in which those accused are found to intensify their cooperation with the ICTR and to facilitate their arrest and transfer to Arusha. Member States should also remain receptive to discussions relating to the possible transfer of cases of indictees and suspects at large to their respective jurisdictions for trial. Following a request for transfer by the Prosecutor, it will be for the Trial Chambers to decide whether a person shall be transferred.

Let me add that cooperation within the Tribunal is excellent. The President, the Prosecutor and the Registrar meet regularly in the Coordination Council and are in frequent contact more generally. The ICTR staff continues to be committed and hardworking.

Finally, let me reiterate our appreciation to those six Member States that have entered into agreements for the enforcement of sentences handed down by the ICTR. Let me also express our thanks to all Member States for their cooperation, including arrests, transfers of indicted persons to Arusha and facilitating the travel of witnesses. The Tribunal also thanks the Secretary-General, Mr. Kofi Annan, for his continued support.

The Acting President: I call on Mr. Theodor Meron, President of the International Criminal Tribunal for the Former Yugoslavia.

Mr. Meron: I am deeply honoured to address the Assembly to present the eleventh annual report of the International Criminal Tribunal for the Former Yugoslavia (ICTY). At the outset, I wish to thank the Member States of the United Nations for the critical support they have long afforded the Tribunal. We are working tirelessly to accomplish our important mission, and I am pleased to report that, despite substantial obstacles, we are making tremendous strides.

Since I last reported to the Assembly one year ago, the Tribunal has continued the steady march of progress in achieving its mission. The Trial Chambers and the Appeals Chamber have continued to hear and dispose of a record number of cases, and we have implemented a number of reforms to increase the efficiency and the pace of our proceedings. Consistent with the completion strategy endorsed by the Security Council, those initiatives, both internal and external, ensure that the Tribunal's energies and resources are concentrated on senior leaders suspected of being most responsible for crimes within the Tribunal's jurisdiction.

Even though we are proud of the gains we have made, we recognize that there is always room for improvement. We are constantly seeking ways to increase the efficiency of our proceedings and to reduce the costs of our operations, without sacrificing the quality of our work.

We have redoubled our efforts to ensure that the States of the former Yugoslavia do all they can to arrest indicted individuals who remain at large, and Serbia and Montenegro's delivery to the Tribunal of Ljubisa Beara, who was indicted for atrocities at Srebrenica, is noteworthy. As we strive to fulfil the Tribunal's mission, however, we are growing deeply alarmed by the current fiscal circumstances and the effect they are beginning to have on our work, and by the fact that a number of important indictees remain at large.

With those concerns in mind, we eagerly invite the cooperation of all Member States as we seek to bring to justice the perpetrators of the atrocities that scarred the Balkans in the 1990s and devastated hundreds of thousands of lives, and to contribute further to the reconciliation of the peoples of the former Yugoslavia.

First let me review for the Assembly some of the Tribunal's chief accomplishments during the past year. The Tribunal's activities have continued at a fast pace, honouring the Tribunal's commitment to the Security Council and to the General Assembly. The Tribunal's Trial Chambers have continued to work at full capacity, holding morning and afternoon sessions, often running six trials simultaneously. During the year in review, the Chambers worked on 35 merits case and five cases of contempt, all at various phases of the proceedings. They rendered 11 judgements, some on the merits and others concerning sentencing.

Certainly the most high-profile trial has been that of Slobodan Milosevic, former head of State of the Federal Republic of Yugoslavia, which proceeded before Trial Chamber III. Following the departure from the trial — and, sadly, the passing — of Presiding Judge May, we were able to continue the functioning of the trial by applying, for the first time in the ICTY, rule 15(bis), which we amended in 2002 and which allowed us to replace Judge May immediately with Judge Bonomy. In February of this year, the prosecution rested its case, and the defence opened its case at the end of August.

The Appeals Chamber, during the year in review, disposed of a record number of appeals. The Chamber completed 17 interlocutory appeals, four appeals from judgements on the merits, and one request for review. The Appeals Chamber also altered its internal working procedures to ensure that appeals continue to be treated as expeditiously and fairly as possible.

Over the past year, we have adopted several important reforms to conserve the Tribunal's resources for the prosecution of senior officials. Internally, we amended our rules to facilitate the implementation of the completion strategy and to enforce the objectives of Security Council resolutions 1503 (2003) and 1534 (2004). At a special plenary session in April, the Judges of the Tribunal amended rule 28(A) of the rules of procedure and evidence to require that a group of judges — namely, the President and Vice-President, along with the Presiding Judges from each of the three Trial Chambers — verify that each new indictment filed by the Prosecutor concentrates on one or more senior leaders suspected of being most responsible for crimes within the Tribunal's jurisdiction. Indictments

that meet this seniority requirement proceed in the ordinary manner; those that do not will be returned to the Prosecutor.

The permanent Judges of the Tribunal also unanimously adopted an amendment to rule 11(bis), the rule governing the transfer of cases involving mid- and lower-level accused to national jurisdictions where the accused would receive a fair trial and would not be exposed to the death penalty. Prior to the amendment, the rule permitted a case to be referred only to the national jurisdiction in which the alleged crimes occurred or in which the accused was arrested. Now, however, we have expanded rule 11(bis) to allow the transfer of cases to any national jurisdiction with the will and the judicial capacity to afford the accused a fair trial — again, so long as the death penalty is not an available punishment.

That amendment creates an additional mechanism for the referral of cases out of the Tribunal's jurisdiction, thereby improving the Tribunal's efficiency. By transferring lower- and intermediate-level defendants, we enhance the critical involvement of national Governments in bringing reconciliation and justice to the region. A trial chamber has been tasked with considering requests from the Prosecutor for the transfer of cases to Bosnia and Herzegovina, Serbia and Montenegro, and Croatia. Its role is to verify that the conditions stated by the Security Council and our rules of procedure and evidence have been met in terms of the defendant's seniority and the availability of due process in the domestic courts, before the cases can be transferred. One of these national jurisdictions, I am pleased to report, is very close to being ready to accept transfer cases of lower- and intermediate-level officials.

Officials from the Tribunal have worked closely with the Office of the High Representative to create the special chamber for war crimes prosecutions in the new State Court of Bosnia and Herzegovina. An Implementation Task Force and nine working groups were established, and those groups are nearing completion of their work in preparing the Sarajevo war crimes chamber to receive transferred cases. The Bosnian authorities expect that the chamber will be operational by January 2005, and the Tribunal is prepared to begin transferring cases as soon as practicable.

As the Balkan region moves toward stability, these national courts should — and, I trust, will — assume a major role in bringing offenders to justice, achieving reconciliation in the area, and promoting the rule of law. However, they can do so only if they are not used for political purposes and if they meet international standards of due process and fair trial. To that end, other members of the international community have begun lending support to the fledgling Sarajevo tribunal. At a diplomatic conference held in October 2003 at The Hague, Ambassador Fassier, the Senior Deputy High Representative for Bosnia and Herzegovina, joined me in explaining the function of the chamber and the need for States to support the project. As a result, supporters pledged more than 16 million euros in contributions to defray start-up costs during the chamber's first two years. Additional pledges were made to help fund years three through five of the project. The delivery of such financial support is crucial to ensuring the successful operation of the new war crimes chamber.

The Tribunal is engaged in a number of initiatives designed to expedite the process of preparation for an eventual transfer of cases from the ICTY to Croatia and Serbia and Montenegro. For example, the Tribunal organized an extensive programme for Croatian judges and prosecutors who are likely to take part in the trial of war crimes cases. During my first official visit to Croatia, in early November 2004, I was impressed by the growing professionalism of the County Court in Zagreb and of the Supreme Court of Croatia. The Tribunal also hosted a week-long visit, organized by the United Nations Development Programme, by seven judges of the newly established department for war crimes in the Belgrade District Court. This court is developing important war crimes trial capability.

The availability of national war crimes courts to which the Tribunal can transfer intermediate and lower-level cases will go a long way towards helping us fulfil the goals of the completion strategy. We have made great progress towards that end during the last year. The judges of the Tribunal held several plenary sessions in which, among other things, we adopted the rule amendments that I mentioned earlier. The plenary sessions in December 2003 and May of this year focused heavily on the completion strategy, including ongoing measures to enhance the efficient operation of the Tribunal.

In addition to the rule changes to which I referred, several other developments during the past year have made the Tribunal's operation smoother and improved its efficiency. We have establishe a scheduling working group that forecasts the duration of trials and judgement-drafting periods, to ensure that courtroom space is used to its maximum capacity. This working group, composed of members of the Registry, Chambers and the Prosecutor's office, has succeeded in overseeing the efficient progress of trials and use of the Tribunal's facilities.

Finally, we have extended the powers of ad litem judges to perform pre-trial functions in a greater number of cases, thereby making full use of the ad litem judges' service and aiding trial readiness. In relation to the ad litem judges, however, I would underscore, as I noted in my letter to the United Nations Legal Counsel, that it is of critical importance that the elections of ad litem judges be held as early as possible in 2005. Early elections will enable the Tribunal to achieve the most timely and efficient organization of trials possible.

I would also note that we continue our efforts to work with the Governments of the States of the former Yugoslavia. Cooperation with Bosnia and Herzegovina is good, but cooperation with Republika Srpska remains insufficient. This is especially the case with respect to fugitives who remain at large and access to wartime documentation. Moreover, except for the case of Ljubiša Beara, indicted for his alleged role in the war crimes in Srebrenica, there has still been virtually no cooperation by Serbia and Montenegro with respect to the arrest of fugitives, access to evidence and the granting of waivers of immunity to enable witnesses to provide statements or testify before the Tribunal. While the Croatian authorities' cooperation has improved considerably, we expect them to exert their utmost efforts until Gotovina is in The Hague.

I hope it is clear by now that the Tribunal has made every possible effort to stay on track with the completion strategy during the last year. I must report, however, that financial difficulties are beginning to threaten our capacity to run on all cylinders. Although some Member States have fulfilled their financial commitments to the Tribunal for 2004 — including most recently the Russian Federation, to whom I wish to express my special appreciation, and all the other permanent members of the Security Council — far too many other States have not met their obligation to support the Tribunal's mission, and their payments have fallen into arrears.

At this time, outstanding contributions for 2004 and previous years amount to an unacceptably high percentage of the Tribunal's yearly budget. As a result, the Secretary-General determined in May to keep all expenditures at a minimum and imposed a recruitment freeze on all posts and a severe reduction in all other expenditures.

The freeze is beginning to have a devastating effect on the Tribunal. Since it was implemented in May, well over 100 staff members have left the Tribunal, which represents more than 10 per cent of our numbers. This loss of staff jeopardizes our efforts to execute the completion strategy. More to the point, the hiring freeze leaves us unable not only to hire new staff members, but even to replace those who leave. Also, the perceived lack of support from the international community cannot help but influence staff morale and motivation.

We are striving hard to do more with less, but we can redistribute workloads for only so long. Inevitably, the hiring freeze will cripple our ability to operate efficiently and to fulfil the goals of the completion strategy. As an institution with only a limited mandate and of impermanent duration, we already face difficulties in recruiting and retaining talented staff members, who are attracted, naturally, to more permanent employment with greater opportunities for advancement at other institutions. This intrinsic disadvantage, coupled with the hiring freeze, poses a serious threat to our completion goals.

Despite these financial troubles, we are doing all that we possibly can to stay on track with the completion strategy. However, I repeat my previous call and that of my predecessors for each and every Member State to do its full part to assist the work of the Tribunal. Twenty fugitives remain at large and must be arrested. This number includes Radovan Karadzić, Ratko Mladić and Ante Gotovina. In this regard, I urge the General Assembly to be mindful of the risks posed to international justice in seeming to allow fugitives the false hope that they can outrun and outlast the Tribunal. With the end of the Tribunal's lifecycle in sight, we must together guard against compromising the legacy of justice and reconciliation in the former Yugoslavia. As I have often said, the Tribunal's historic mission will not have been achieved as long as

senior-level accused have not been brought to justice at The Hague.

The Tribunal is now more than 10 years old. When its creators established it in 1993 as the first international war crimes chamber since Nuremberg, they hoped it would do more than simply mete out justice to individual wrongdoers. They hoped that it would also help create an impartial record of atrocities committed during the Yugoslav conflicts and offer victims a sense of accountability and dignity. And they hoped that in so doing it would contribute to reconciliation and reconstruction in the republics of the former Yugoslavia. I am proud to say that the Tribunal, with the General Assembly's support, is tirelessly striving to fulfil those hopes.

It would exceed the capacity of any single court to bring more than a partial reckoning to the vast scale of the crimes that marred the Balkans in the 1990s — the murders, rapes and deportations, the acts of torture, destruction and cruelty.

If it was with slowness at first, the Tribunal has helped to bring to account a considerable number of accused of high rank, and it is doing so with confidence and efficiency. By throwing into stark relief the consequences of ethnic and religious hatred, the trials held by the Tribunal have demonstrated the viciousness of those who built their power by encouraging their followers to embrace such hatred.

The Tribunal has thus made a fundamental and lasting contribution to bringing justice to the peoples of the former Yugoslavia. In addition, the Tribunal's very existence has served an educational function far beyond the borders of the Balkan region. Due in no small part to the Tribunal, and the wisdom of the United Nations in creating it, international humanitarian and human rights law today hold greater currency and are better understood throughout the world than they were a decade ago.

The types of cases on the Tribunal's docket are necessarily large and complex and our proceedings are necessarily lengthy and costly. Often the crimes charged were connected to entire military campaigns and occurred over the course of months or years across many locations and involved several defendants.

With many counts of indictments, tens or hundreds of witnesses, thousands of pages of documents — most of which must be translated from Serbo-Croatian into English and French, the Tribunal's working languages — the trials are extremely complex. In the plenary session scheduled for 6 December, the judges will consider additional important proposals for further expediting trials and appeals.

It is difficult to put a price tag on international justice. At the very least, justice for the former Yugoslavia cannot be cheap. Due process must be fully respected, and it is critical to bear in mind all that is gained through the Tribunal's work.

After some 10 years the Tribunal has established an impressive and unprecedented body of jurisprudence on both substantive international humanitarian and criminal law and, equally important, on criminal procedure and evidence. The Nuremberg Tribunal left us with important judgements on war crimes and crimes against humanity, but it had far less to say on international procedural and evidentiary law.

Our judgements on both procedural and substantive law now supply a foundation for all international criminal courts, and our success serves as a model for national prosecutions of those who commit wartime atrocities. Our leading decisions on international humanitarian law will provide essential guidance for the tribunals in the former Yugoslavia, and our staff members are sharing and will continue to impart their valuable experience in training the staff of these nascent courts.

Our jurisprudence will likewise contribute to the success of other courts designed to enforce international humanitarian law, including various national courts as well as the Special Court for Sierra Leone and the International Criminal Court, both of which have used our Tribunal as a model.

In establishing this Tribunal, the international community pledged to bring to justice persons suspected of having inflicted terrible atrocities on their fellow human beings. It pledged to eliminate impunity, not through vengeance but through the rule of law and by upholding the basic principles of human rights and due process. With the full support of all Member States, we look forward to continuing that important work and to providing a jurisprudential example for criminal tribunals still to come.

Mr. Hamburger (Netherlands): I have the honour to speak on behalf of the European Union, the candidate countries Bulgaria, Romania, Turkey and

Croatia, and the European Free Trade Association countries Iceland and Liechtenstein, members of the European Economic Area, align themselves with this statement.

First of all I would like to thank Judge Møse, President of the International Criminal Tribunal for Rwanda (ICTR) and Judge Meron, President of the International Criminal Tribunal for the Former Yugoslavia (ICTY), for their briefings earlier this morning.

The European Union believes strongly in the principle of no impunity for the most serious crimes of concern to the international community as a whole. Both the ICTY and the ICTR were created to hold individuals accountable for such crimes. Peace, justice and the rule of law are inextricably linked, and both Tribunals have made valuable contributions towards reconciliation and the maintenance of peace and security in the countries that they have served.

The European Union would therefore like to reaffirm its full support for the ICTY and the ICTR, and it commends their entire staff in their efforts to bring justice to victims of the most heinous crimes.

The European Union wishes to express its appreciation for the eleventh annual report of the ICTY and the ninth annual report of the ICTR. The EU welcomes the developments and improvements achieved during the past year. In the period under review, the ICTR delivered five trial judgements involving nine accused. Thus by the end of 2004 a total of 25 persons will be on trial, bringing the total number of accused whose trials have been completed or are in process to 48.

Furthermore, the European Union notes that the three Trial Chambers of the ICTY examined six trials on the merits and two cases of contempt and rendered two judgements on the merits and nine sentencing judgements arising from nine guilty pleas. In addition, the EU notes that the Appeals Chamber disposed of a record number of appeals.

The European Union welcomes the commitment of the presidents of both Tribunals to the completion strategy, as well as to the reforms of the structure and operation of the Tribunals during the reporting period. The Tribunals should indeed make every effort to respect the deadlines as stipulated by Security Council resolutions 1503 (2003) and 1534 (2004). In that respect the European Union notes that the international community also has a commitment. Sufficient resources, cooperation, assistance and the support of Member States are essential to the work of the Tribunals.

It is crucial that States cooperate with regard to requests for access to archives and documents, securing the appearance in court of prosecution witnesses and the arrest and transfer of indictees still at large. We reiterate in particular the need to intensify efforts to arrest and transfer Radovan Karadzić, Ratko Mladić and Ante Gotovina to the ICTY and Felicien Kabuga to the ICTR for trial.

In particular, the European Union would like to reaffirm that cooperation by Rwanda and by the countries of the western Balkans with the Tribunals remains essential. Furthermore, the EU is concerned about the impact which the non-payment of assessments by Member States has on the work of the Tribunals. It might seriously endanger their ability to fulfil their mandate within the framework of the completion strategy.

The European Union welcomes the efforts made by both Tribunals to transfer cases to domestic jurisdictions and the activities in the area of national capacity-building. The EU would like to restate its appeal to the Tribunals to ensure that the necessary standards of fair trial, independence and full respect for human rights are respected within trials in national courts.

Finally, I would like to reassure the Tribunals of the full support of the European Union and to thank all the members of the Tribunals and their Chambers, Appeals Chambers and Registries, as well as the Offices of the Prosecutors, for their contribution to peace, justice and the rule of law.

Mr. Drobnjak (Croatia): Croatia has aligned itself with the statement of the European Union on this significant agenda item. In addition, I would like to emphasize in brief several points of particular importance for my country.

Croatia highly commends the report of the President of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and is pleased with the fact that it takes accurate note of the continuous and comprehensive efforts that Croatia has invested in ensuring full cooperation with the Tribunal. I would

like to take this opportunity to thank President Meron for his words of praise for Croatia in this regard.

The successful implementation of the completion strategy remains at the forefront of Croatia's approach to the Tribunal. The fulfilment of this strategy in accordance with the 2004, 2008 and 2010 benchmarks, as outlined in Security Council resolutions 1503 (2003) and 1534 (2004), must remain our priority. Croatia stands ready to contribute to that goal to the best of its abilities.

Respecting the benchmarks is not just a question of the effective administration of justice. Just as important, it adds to the confidence-building and stabilization processes in the region. We are already approaching the first of the three completion strategy benchmarks — the completion of all investigations by the end of 2004. With the investigative process done, it should be easier to focus on the remaining tasks and shift necessary resources, on both the technical and the political sides of the spectrum, in that direction.

The referral of cases to competent national jurisdictions for trial remains one of the pillars of the completion strategy. Croatian judges and prosecutors are ready for that serious task. In several cases they have already demonstrated their high professional standards in that demanding and enormously sensitive domain. I would like once again to express our gratitude to the Tribunal and its experts for the valuable technical and counselling assistance provided to Croatia's judiciary, thus helping it to enhance its capacity to prosecute war-crime cases in a professional and non-biased manner.

The area of the former Yugoslavia is turning into a zone of peace and stability. As I speak, the Croatian Prime Minister, Mr. Ivo Sanader, is making an official visit to Serbia and Montenegro, strengthening good neighbourliness, confidence-building and cooperation between Zagreb and Belgrade. The past is not forgotten — nor should it be. But it is the future that guides and inspires us. It is against the background of new regional stability that we must evaluate the work of the ICTY and the imperative to complete its remaining tasks efficiently and on time.

Croatia has already stated from this rostrum that certain interpretations by the Prosecutor regarding the historical background and political genesis of the conflict in the former Yugoslavia, as well as the character of the consequent military operations, appeared not to be fully in line with the General Assembly resolution on the occupied territories of Croatia or with the spirit of several important Security Council resolutions. However, that will in no way impede Croatia's readiness to cooperate fully with the ICTY. After all, the Tribunal remains the place where the innocence or guilt of any and every indicted person must be determined. It has been wisely said that justice is truth on the march. We are confident that both justice and truth will be served well.

As an early advocate of the Tribunal and its goals, Croatia has established a long and largely successful record of cooperation with the ICTY. Being a candidate country for membership in the European Union, Croatia is perfectly aware of the importance of cooperation with the ICTY. Croatia will therefore continue to fulfil all of its related obligations and will take, within its own borders, all measures required for prosecuting the perpetrators of war crimes.

Mr. Rahman (Malaysia): I should like to thank The Honourable Judge Erik Møse, President of the International Tribunal for Rwanda (ICTR), and The Honourable Judge Theodor Meron, President of the International Tribunal for the Former Yugoslavia (ICTY), for introducing the reports of the two Tribunals and for their excellent leadership of the Tribunals during the respective reporting periods. The reports provide a comprehensive review of the progress of the work of the Tribunals, as well as of the difficulties encountered by them. We commend both Presidents, as well as the members of the Chambers, Prosecutors and the Registries of both Tribunals for the progress achieved so far.

Malaysia continues to believe strongly in the importance of upholding the principles of justice and equality, which international humanitarian law stands for. We regard adherence to the rule of law as a necessary basis for upholding those principles. The Tribunals were established, among other reasons, to bring to justice persons allegedly responsible for violations of international humanitarian law and to contribute to the restoration of peace by promoting reconciliation in the former Yugoslavia and in Rwanda. Since their creation, the Tribunals have played a significant role in clearly demonstrating that genocide and other serious violations of international humanitarian law cannot be tolerated. The Tribunals exist in order to ensure that the perpetrators of

genocide and other serious violations of international humanitarian law will not get away with impunity.

The work of the Tribunals is of immense importance in bringing to justice the perpetrators of atrocities and in the development of international justice and international law. There is no doubt that the decisions of the Tribunals have contributed to the progressive and constructive development of case law in the spheres of general international law and international humanitarian law in respect of different questions of procedure and competence, as well as in substantive issues of considerable importance. The Tribunals have led to pioneering advocacy for victim-oriented restitutive justice in international criminal law.

Malaysia is pleased to note that the both the ICTY and ICTR have focused considerable efforts on the implementation of their completion strategies, as set out in Security Council resolutions 1503 (2003) and 1534 (2004). The completion strategies call on the ICTY and the ICTR to take all possible measures to complete investigations by the end of 2004, to complete all trial activities at first instance by the end of 2008 and to complete all work by 2010. We take note of the substantial structural changes that have been made in order to facilitate that process.

I would first like to comment on the activities of the International Criminal Tribunal for Rwanda. Malaysia is pleased to note from the report that the ICTR has undertaken further measures to improve its performance in expediting proceedings in the interest of completing its mandate. These improvements have enabled the Tribunal to accelerate its work towards completing all trials by 2008. One of the biggest structural reforms of the ICTR has been the appointment of its own Prosecutor, following, perhaps, a belated acknowledgement by the Security Council that it would not be possible for one person to hold the position of Prosecutor for two Tribunals. We commend the work of the Prosecutor, Mr. Hassan Jallow, who took office in September 2003, and note his efforts in taking steps to ensure the implementation of the completion strategy through the Completion Strategy Monitoring Committee. With the establishment of the Appeals section, the work of the Court has been further accelerated.

The enlargement of the pool of ad litem judges for the Tribunal from four to nine would allow the Tribunal to increase its judicial productivity and meet the demands imposed by the rise in cases. The Tribunal must be in a position to undertake its tasks efficiently, so that detainees are spared undue delay in the completion of their trials. With the appointment of these ad litem judges, the ICTR should be able to meet its target of completing all trials by 2008. My delegation is pleased that a Malaysian judge has been appointed and is able to contribute to the process through his service as an ad litem judge.

I would now like to turn to the International Criminal Tribunal for the Former Yugoslavia. My delegation notes with appreciation that the Tribunal has undergone structural and operational reform during the reporting period. The most significant internal reform was the amendments of rule 28 and 11 bis of the Rules of Procedure and Evidence to enable the Tribunal to determine the seniority criterion in the review and confirmation of new indictments and the expansion of the national jurisdiction, so that cases involving intermediate and lower-level accused can be transferred to national jurisdiction.

Malaysia notes that one of the durable legacies of the ICTY will be the strengthened criminal justice system in Bosnia and Herzegovina. The establishment of a special chamber for war crimes prosecutions is crucial to enable the ICTY to complete its work by 2008. The establishment of this War Crimes Chamber is part of the wider ongoing judicial reform in Bosnia and Herzegovina. We are pleased to note that the establishment of the task force by the Tribunal has helped accelerate the establishment of this Chamber, which is expected to be fully operational in 2005 following the amendments in the Bosnia and Herzegovina Parliament.

We also note that, while the ICTY has made every effort to be more efficient and expedite matters more quickly, one of the biggest challenges is the reluctance of some States in the region to offer full cooperation, in particular their refusal to turn suspects over to the Tribunal. As indicated in the report, there has been no major progress in the arrest and transfer of indictees, except in Croatia. We are concerned that the lack of cooperation could prevent the Tribunal from meeting its 2008 deadline. The countries concerned must meet, without hesitation, the call for cooperation by the Prosecutor.

The work of the ICTY and the ICTR has greatly contributed to the field of post-conflict justice — not

only in furthering international criminal jurisprudence on matters such as individual responsibility, the ability to exercise jurisdiction over crimes committed in international conflicts, but also in terms of procedural refinements. In reiterating its fullest support for both the Tribunals, Malaysia calls, once again, on the international community to give full and sustained support to the Tribunals in carrying their mandate and objectives. The sustained commitment by major Powers is also crucial. The delivery of justice is important for a sustainable peace-building process. Without justice there will be no peace.

Mr. Ozawa (Japan): At the outset, I would like to thank both President Theodor Meron and President Erik Møse for presenting their annual reports to the General Assembly. Japan appreciates their efforts to implement the completion strategies for both Tribunals, and hopes that they will strengthen those efforts. The fact that we have now received the eleventh annual report of the ICTY and the ninth annual report of the ICTR indicates very clearly that many years have passed since the establishment of the two Tribunals. A prolonged judicial process does not necessarily contribute to better justice, and this is why, we believe, the Security Council endorsed the completion strategies. The Presidents of both Tribunals should do their utmost to ensure that this goal is met, and to complete the first phase of the completion strategy, the investigation work, by the end of this year.

Allow me to make a few comments on the work of the ICTY. First of all, I would like to express my sincere condolences on the passing of Judge Richard May this past July. We commend his contribution to the work of the Tribunal, and in particular his able leadership in his capacity as Presiding Judge of the Milosevć trial.

Regarding the speed of the work of the ICTY Chambers, we acknowledge the fact that the Tribunal's three Trial Chambers ran six trials simultaneously throughout the year covered by the report. We hope the Trial Chambers will continue its work in this manner in order to maintain and further enhance the efficiency of the Court.

Needless to say, the continuity of the work of the ICTY is very important. In this regard, we hope that the permanent judges to be elected in the elections on Thursday, 18 November, in the General Assembly will heed the importance of this continuity and promote the completion strategies by making plans regarding the schedule of the trials well in advance of the commencement of their terms on 17 November 2005. In a similar light, we also hope that the terms of the ad litem judges will be examined with the aim of maintaining the continuity of the work of the ICTY.

The ICTY was established to bring to justice those responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia. As such, Japan fully shares the concern expressed by the Prosecutor that Radovan Karadzić, Ratko Mladić and Ante Gotovina are yet to be arrested. It is therefore essential that the countries concerned cooperate and provide support, not only in the process of arresting those fugitives but also by providing other necessary means for obtaining access to witnesses, archives and other crucial evidence. Such cooperation is required in order to avoid any waste of time in fulfilling the mandate of the ICTY.

Next, let me turn to the work of the ICTR. First, we have been impressed by the fact that the *Ndindabahizi* trial, which began on 1 September 2003, was completed in less than one year, with judgement being rendered on 15 July 2004. We were likewise pleased to note that in the *Muhimana* trial, which commenced on 29 March 2004, 19 prosecution witnesses were heard in a period of 20 trial days. These results confirm that the efficiency of the trials has been enhanced.

Secondly, my Government welcomes the commencement of work by Mr. Jallow, the Prosecutor of the ICTR, whose position was established by Security Council resolution 1503 (2003). We commend the fact that Mr. Jallow has communicated with the Rwanda Government on a regular basis and is conducting more in-depth discussions with it on the transfer of cases to Rwanda. It is especially commendable that he has made efforts to get the local people more involved in the judicial process, which enables them to achieve justice while maintaining ownership. Japan hopes that the cooperation and dialogue between the ICTR and the Rwanda Government will be further strengthened.

As a final point, let me reiterate one lesson that we have learned from the ICTY and the ICTR. The member States cannot fund the expenses for the pursuit of justice unlimitedly. The Secretary-General pointed that out in his report on the rule of law and transitional

justice, and the importance of that lesson was also underscored by many of the Member States participating in the open debate at the Security Council on 6 October. The Secretary-General stated in his report that

> "The stark differential between cost and number of cases processed does raise important questions... In addressing these cost-related issues, high priority should be given to consideration of the need to provide for an effective system for delivery of justice". (*A/2004/616*, para. 42*)

Although we do note from the presentations by the Presidents of both tribunals that efforts have been made to address that issue, the current gap between cost and the number of cases processed is still inappropriate. We believe that the operation and cost of the Tribunals should be phased down in accordance with the completion strategies. With those concerns in mind, Japan strongly hopes that the ICTY and the ICTR will continue to maximize their efforts to conduct fair trials in an efficient and effective manner, under the leadership of their Presidents, in order to fulfil their commitments to the completion strategies endorsed by the Security Council.

Mr. Shin (Republic of Korea): At the outset, allow me to express my sincere gratitude to the President of the International Criminal Tribunal for the Former Yugoslavia (ICTY), Judge Theodor Meron, and to Judge Erik Møse, President of the International Criminal Tribunal for Rwanda (ICTR), for their detailed and informative reports.

I also would like to express my deep appreciation to Ms. Carla del Ponte, the Chief Prosecutor of the ICTY, and its 25 judges, including nine ad litem judges, for their hard work and dedication to the realization of international justice. My heartfelt thanks also go to Mr. Hassan Bubacar Jallow, the Chief Prosecutor of the ICTR, and its 25 judges.

Since they were established as the precursor of a permanent international criminal court in the 1990s, the ICTY and the ICTR have made great contributions towards the development of international criminal law and international humanitarian law by accumulating important judicial precedents regarding genocide, crimes against humanity and serious war crimes. Thanks to the pioneering work of the two Tribunals, valuable lessons are now available for the International Criminal Court, which has just begun investigations in the Democratic Republic of the Congo and Uganda. Those lessons are also applicable to the Special Court for Sierra Leone, war crimes prosecutions in Kosovo, the East Timor Special Panels for Serious Crimes and the Extraordinary Chambers of Cambodia.

We believe that, in order to achieve the objective of eliminating the culture of impunity that exists during armed conflicts and post-conflict situations, it is important for the international community to establish a seamless web of transnational justice that can embrace both international and domestic jurisdictions together. Through such efforts, the international community will be able to avoid any impunity gap that may arise out of the presence of various judicial organs designed to punish international crimes, including international courts, special hybrid courts and domestic courts. Furthermore, it would be desirable to explore the possibility of creating a consulting mechanism among the various judicial bodies to share valuable experiences and information on the operation of the courts. In our view, now is the time for the international community to seriously consider how to avert or minimize the possible fragmentation of international jurisprudence on international criminal law that could result from having diverse judicial institutions.

My Government commends the tireless efforts of the ICTY and the ICTR to enhance efficiency in their proceedings, which will better enable them to carry out their completion strategy within the target date. The completion strategy they have pursued involves conducting trials simultaneously while referring cases of relatively less serious importance to domestic jurisdictions equipped with the necessary capacity and personnel. That approach allows the two Tribunals to focus on the most senior echelon of perpetrators who have committed egregious crimes of international concern, opening the door to achieving the complementarity of international and domestic jurisdiction in an effective manner.

One of the important lessons the two Tribunals have demonstrated to the international community is the wisdom of mapping out a division of work between international and domestic jurisdictions at an early stage of trials. In light of their deterrent effect, it is natural that international criminal courts should concentrate on the most important cases, both for the seriousness of the crimes involved and the symbolic

meaning of putting high-level, high-profile suspects on trial. Moreover, the enormous cost of running the two Tribunals makes it both desirable and imperative to follow that division of work in order to lessen their heavy resource burden. The Republic of Korea hopes that the International Criminal Court, the Special Courts and other courts will take full account of that valuable lesson in their future activities.

In that regard, my delegation deems it crucial for the international community to provide assistance to the relevant domestic courts to facilitate their exercise of judicial functions in a transparent manner. We also appreciate the valuable cooperation of those States that have signed an agreement with the United Nations to allow persons convicted by the Tribunals to serve out sentences in their territory or to provide assistance in the relocation of witnesses.

The Republic of Korea would like to underscore the pressing need for the Governments in the regions to fully cooperate in arresting the accused who remain at large and to procure witnesses, documents and other relevant evidence. It is a source of concern for us that Radovan Karadzi□ Ratko Mladi□ and Ante Gotovina, three high-level leaders indicted by the ICTY, and Felicien Kabuga, indicted by the ICTR, have not yet been apprehended and brought before the Tribunals. We believe that the Tribunals' work will not be complete until those individuals are brought to justice. In that regard, current efforts to apprehend those indictees should be intensified. We ask for prompt, concerted action by the States in the regions to bring the accused in for trial in order to allow the Tribunals to finish their trials by 2008 and to complete the appeals phase by 2010.

While we support the two Tribunals' recently adopted reforms to refer cases involving mid- and low-level criminals to national court jurisdictions, we also note the importance of outreach programmes to dispel any possible wrong-headed notion that international justice is dispensed in a less than transparent way. My delegation considers the practice of negotiating guilty pleas, which was introduced in 2002, to be helpful in economizing costs. However, the Tribunals must strike a delicate balance between the need to preserve a sense of justice for victims and the international community and the interests of delivering justice in a cost-efficient way. Against that backdrop, it is essential for the States exercising jurisdiction over the cases to maintain visibility of justice and to engage in outreach activities, both on their own and in cooperation with the ICTY and ICTR.

In conclusion, my delegation reaffirms its strong support for the work of the ICTY and the ICTR in administering international criminal justice and in setting valuable and important precedents in international criminal law and international humanitarian law.

Mr. Loncar (Serbia and Montenegro) (*spoke in Serbian; English text provided by the delegation*): At the outset, allow me to thank you, Sir, for the opportunity to present, on behalf of the State Union of Serbia and Montenegro and in my capacity as a member of the National Council for Cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY), our positions on the question under consideration. I would also like to thank the President of the ICTY for his comprehensive briefing.

First of all, let me take this opportunity to reaffirm that Serbia and Montenegro advocates the administration of international justice through the individualization of criminal responsibility. As a United Nations Member State in particular, Serbia and Montenegro recognizes its obligation to cooperate with the ICTY. My country believes that it is in the best interest of the State Union of Serbia and Montenegro, as well as of the other States that emerged from the former Yugoslavia, to bring to justice all those responsible for grave violations of international humanitarian law, irrespective of their ethnic origin, either in proceedings before the ICTY or in trials before the national courts.

I am pleased to be in a position to report on the latest aspects concerning cooperation between Serbia and Montenegro and the Tribunal. Following several election campaigns — early parliamentary elections in Serbia late last year; presidential elections in Serbia in June this year; and municipal elections in Serbia in December — that resulted in certain technical delays in cooperation in the first half of this year, the National Council for Cooperation with the International Criminal Tribunal for the Former Yugoslavia was established as a legal and competent body and became fully operational in July. Serbia and Montenegro is providing effective assistance to the Office of the Prosecutor and the ICTY in tracking down, interviewing and taking testimony from witnesses and suspects. The Council of Ministers of Serbia and

Montenegro and the Government of the Republic of Serbia have so far granted waivers for State, official and military secrets to 316 members of the army, police officers and Government officials.

Since the new National Council was created, 53 waivers have been granted, including those to be confirmed at the session of the National Council scheduled for 16 November, for which the Government of Serbia has already granted waivers. The National Council for Cooperation with the International Criminal Tribunal for the Former Yugoslavia, acting on requests from the Office of the Prosecutor for waivers, has granted all waivers requested by 15 September. The requests received after that date are currently being processed by the Council and will be completed within a reasonable period of time. Thus, not all requests for waivers mentioned in the present report have been met. As I said, new requests for waivers are coming in every day and are being duly processed.

The Office of the Prosecutor has so far been provided with several thousand documents, including classified documents from sessions of the Supreme Defence Council, the Parliament of the Republic of Serbia, the Counter-Intelligence Service of the Army of Serbia and Montenegro, the Ministry of the Interior of Serbia and Montenegro, and so on. Since the new National Council was constituted, 21 requests for documents have been granted.

I am afraid that I cannot fail to mention certain objective obstacles that State officials and civil servants have encountered in fulfilling requests for documents. Most of the documents originate from 1991 and 1992 and some are unavailable due to negligent practices or misconduct by some officials. In such cases, criminal proceedings have been instituted. Some of the documents were destroyed in the 1999 North Atlantic Treaty Organization air strikes, since most were kept in military and police facilities that were exposed to severe fire. We have to bear in mind that some requests for documents are not entirely precise and that the Office of the Prosecutor should provide additional clarification. Despite the obstacles and sometimes complicated administrative and bureaucratic procedures, the pace of making the documents available to the Prosecutor has significantly improved in recent months.

The competent State authorities, particularly with respect to Ratko Mladić, are undertaking a number of credible and verifiable activities to establish whether he is in the territory of our country. Several operations have already been undertaken, but no viable evidence has emerged that Mladić is in the territory of the State Union.

As a sign of intensified cooperation with the ICTY, several high-ranking State officials met with the President of the ICTY, Judge Meron, and Chief Prosecutor Del Ponte. The President of the National Council, Minister Ljajic, met with the top ICTY officials in The Hague in September. The Chief Prosecutor visited Belgrade on 30 September and 4 October and met Serbia and Montenegro's top Government representatives, including the President of the State Union, Mr. Marović; the President of Serbia, Mr. Tadić; Foreign Minister Draščović; and the Serbian Prime Minister, Mr. Kostunica. The exchange of visits demonstrated the readiness of Serbia and Montenegro to continue to cooperate fully with the ICTY in all sectors, on the one hand, and the understanding of its internal difficulties, on the other. Those visits have significantly contributed to the re-establishment of an atmosphere of mutual confidence and openness.

On 9 October, Colonel Ljubiša Beara of the Republika Srpska Army and one of the most wanted suspects in the Srebrenica massacre, voluntarily surrendered to the Serbian authorities. He was immediately transferred to The Hague, accompanied by the Minister of Justice of Serbia, Mr. Stojkovic. Counting Colonel Beara, the number of indictees transferred from Serbia and Montenegro to the Tribunal since January 2003 amounts to 24. Serbia and Montenegro continues to take all necessary measures to arrest the remaining fugitives who are believed to be in its territory.

The authorities of Serbia and Montenegro, together with the Organization for Security and Cooperation in Europe's Representative Office in Belgrade, have launched a campaign to raise public awareness in Serbia and Montenegro on the need to cooperate with the ICTY.

Successful cooperation with the ICTY also means adequate public understanding and support for the people of Serbia and Montenegro vis-à-vis the actions of the competent authorities. At this point, cooperation with the ICTY should go both ways, particularly with regard to provisional release until trial of some of the indictees who surrendered voluntarily and for whom

the Government of Serbia provided proper guarantees to the Tribunal. The authorities of Serbia and Montenegro and the Government of the Republic of Serbia continue to work hard to fulfil their international obligations to the ICTY. One of the ways to fulfil those obligations successfully is to voluntarily surrender accused persons.

Along with Bosnia and Herzegovina, Serbia and Montenegro has adopted a regional approach to cooperation with the ICTY. After the visit of the President of the National Council to Sarajevo earlier this year, a joint commission of competent authorities from the two countries was established to monitor the border and stop fugitives from crossing it.

Serbia and Montenegro adds its voice in support of the Tribunal's completion strategy as specified in Security Council resolutions 1503 (2003) and 1534 (2004). The essential precondition for the success of that strategy is the existence and ability of domestic jurisdictions to try referred cases and to meet international legal standards in the proceedings.

The Ovčara case is currently being tried by the War Crimes Panel of the Belgrade District Court, in close cooperation and consultation with the ICTY. The Belgrade District Court War Crimes Prosecutor is also actively cooperating with the ICTY Prosecutor in preparing other cases, as a result of which another case was transferred to the Belgrade District Court.

Our authorities — namely, the Ministry of Justice of the Republic of Serbia — have drafted and sent to the parliament a new law regulating witness protection and the recognition of evidence gathered in non-domestic courts and prosecution offices. Serbia and Montenegro is willing and adequately prepared to prosecute referred cases in its own courts. The Belgrade District Court and its judges and the War Crimes Prosecutor are professionally and technically capable of prosecuting those cases according to internationally recognized standards of justice. That was recognized by the Prosecutor in the Kovačević case when the accused was transferred to Serbia despite the strong pressure brought to bear on the authorities in 2002 and 2003 to have him arrested and transferred to The Hague. That case demonstrates that there is a need for a two-way, mutually beneficial model of cooperation with the ICTY. Serbia and Montenegro awaits the transfer of further cases to be processed before its domestic courts.

In order to improve our capacity to prosecute war crimes, we look forward to further training opportunities for judges and prosecutors from Serbia and Montenegro. We look forward to similar opportunities with regard to assistance in amending domestic criminal legislation in line with ICTY standards.

All of Serbia and Montenegro's leaders — including President Marović, Serbian President Tadić, Prime Minister Koštunica and Foreign Minister Drašković — advocate the fulfilment of all of Serbia and Montenegro's obligations to the ICTY. We believe that the future of all the countries of the former Yugoslavia lies in their integration with Europe. That will not be possible without full reconciliation among the peoples of the former Yugoslavia. Serbia and Montenegro will continue to cooperate fully with the ICTY. Our domestic courts are now ready to bring to justice all those individually responsible for the war crimes committed in the territory of the former Yugoslavia.

Mr. Kusljugić (Bosnia and Herzegovina): Allow me to take this opportunity to thank the President of the International Criminal Tribunal for the Former Yugoslavia (ICTY), Judge Theodor Meron, and Chief Prosecutor Carla Del Ponte for their annual report (A/59/215) and for their very clear and straightforward messages with regard to the Tribunal's current problems, which they articulated in their statements. Bosnia and Herzegovina once again reaffirms its support for the Tribunal and commends its entire staff for their efforts to prevent impunity and bring to justice those responsible for the most serious crimes against humanity, thereby setting new milestones in international criminal justice.

In the 11 years of its existence, the ICTY has established itself as an impartial, professional and competent institution. Its role was twofold. On the one hand, its historical role was to set the record straight and to individualize responsibility for some of the most gruesome crimes against humanity, thereby relieving the participants to the conflict of collective guilt. On the other hand, but no less important, was its role as a pioneer in international criminal justice, thereby paving the path for the Rome Statute and the establishment of the International Criminal Court. In the meantime, preventing impunity has become a widely accepted international practice, and the investigations, processes and verdicts of both the ICTY

and the International Criminal Tribunal for Rwanda (ICTR) have become an important part of international judicial practice.

One hundred and four accused war criminals have appeared in proceedings before the ICTY. Fifty-two of them have received Trial Chamber judgements, 30 have received their final sentences and 10 convicts have already served their sentences.

We regret to learn from President Meron that international financial assistance for the Tribunal appears to be drying up. On behalf of my country, I would like to reiterate the call to the main contributors to continue their support to the Tribunal for as long as it is necessary.

Bosnia and Herzegovina would like in particular to underscore the role of the Tribunal in the individualization of war crimes as a precondition for sustainable interethnic reconciliation in the country and in the region as a whole. We believe that the gestures made by indictees who not only pleaded guilty but also expressed remorse to the victims for the crimes they committed represent a milestone in the reconciliation process. In that respect, the increase in the number of guilty pleas has particular significance legally and historically, as well as for the hundreds of thousands of the victims of war crimes.

Bosnia and Herzegovina remains determined to continue to meet its obligations with regard to cooperation with the ICTY. Our record with respect to the arrest and transfer of indictees still at large, requests for documents, access to archives and ready availability of witnesses has improved in the last year.

Last Monday, the human rights chamber of the Constitutional Court of Bosnia and Herzegovina accepted the report of the Government of the Republika Srpska on the events in and around Srebrenica in July 1995. The report not only contains the names of more than 7,800 victims and discloses several new locations of mass graves, it also accepts the share of responsibility placed upon the Republika Srpska and expresses remorse to the families of the victims. By completing its report, the Special Commission on Srebrenica laid a foundation for successful post-war reconciliation.

However, despite the evident progress in cooperation with the Tribunal, many indicted war criminals have still not been apprehended. That creates a major obstacle to interethnic reconciliation because, in order for the country to come to terms with its tragic past and move on, all indictees must go to The Hague to face justice. That was also the reason Bosnia and Herzegovina was denied membership in the Partnership for Peace at NATO's Istanbul Summit in June of this year. Allow me to quote what NATO leaders said in that regard at Istanbul.

> "We are concerned that Bosnia and Herzegovina, particularly obstructionist elements in the Republika Srpska entity, has failed to live up to its obligation to cooperate fully with ICTY, including the arrest and transfer to the jurisdiction of the Tribunal of war crimes indictees, a fundamental requirement for the country to join Partnership for Peace."

The European Union has also reiterated that full cooperation with the ICTY on the part of the countries of the Western Balkans remains the essential element of the European Union's Stabilization and Association Process. The Union also underscored that failure to cooperate fully with the ICTY would seriously jeopardize further movement towards the European Union. It is therefore clear that the failure to cooperate fully with the ICTY is now the main obstacle to Bosnia and Herzegovina's becoming a stable, peaceful and prosperous European democracy.

Criminal files against 5,908 persons have been submitted to the Prosecutor's Office for review, but only about 100 persons have been brought before the courts. Hundreds, perhaps even thousands, of suspected perpetrators of serious war crimes committed in Bosnia and Herzegovina have therefore not even been charged. They include community members, outsiders who may have contributed to the outbreak of violence and bystanders who did not participate in crimes but also did not intervene to stop them.

Based on its exit strategy, the ICTY intends to transfer to domestic courts the dossiers of unfinished investigations and investigative materials. It will then be up to domestic judicial and prosecutorial authorities to act on those cases. That process will begin next year and will represent a serious test for the maturity of the domestic courts. It will also be an important step in the building of institutions of justice in Bosnia and Herzegovina, which will contribute to significant progress towards the creation of a society based on the rule of law and respect for human rights. In that

respect, it is very important to complete the process of staffing and budgeting the special war crimes chamber of Bosnia and Herzegovina's State Court while taking into account the considerable workload to be put before it in the near future.

Regarding the external component of the ICTY's completion strategy, Bosnia and Herzegovina welcomes the cooperation between the ICTY and the Office of the High Representative in the process of establishing a special chamber for war crimes prosecutions in the State Court of Bosnia and Herzegovina. We call upon Member States to provide the necessary technical and financial support for its functioning. We also fully support the significant work being done by the missions of the Organization for Security and Cooperation in Europe (OSCE) in the region to promote the rule of law, including by strengthening national judicial systems and supporting police reform. The monitoring of domestic war crimes trials constitutes an essential contribution in that regard. We welcome proposals for greater involvement by the OSCE in support of the ICTY's completion strategy.

Mr. Strømmen (Norway): Let me begin by expressing Norway's full recognition of the achievements and the high standards of the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the Former Yugoslavia (ICTY), as reflected in various judgements and in the reports before us (A/59/183 and A/59/215). We would like to thank the Presidents of the Tribunals for the detailed annual reports, which in our view accurately reflect the progress made during the period under review.

While the work of the Tribunals has played a crucial role in advancing the cause of justice in Rwanda and the former Yugoslavia, the Tribunals have a broader significance as well. They represent effective systems of international criminal law and leave a legacy of international jurisprudence that can guide other courts, including the International Criminal Court, and discourage the commission of the worst crimes of international concern. Thus they contribute to the development of international criminal justice and the fight against impunity for mass atrocities in general.

During the period under review, cooperation between the two Tribunals has been enhanced and expanded to include the Special Court for Sierra Leone and the International Criminal Court. Norway appreciates the increased exchange of information and experience and the undertaking of joint activities, which help to strengthen international criminal justice.

We commend both Tribunals on their efforts to put the completion strategies into effect. The Tribunals have increased their efficiency significantly, and both are on schedule. However, their financial situation of the Tribunals is deeply worrying and could severely threaten the implementation of the completion strategies. Sixty per cent of Member States are in arrears. The financial situation has led to a freeze on new recruitment, which prevents both Tribunals from recruiting, and even replacing, essential personnel. We therefore appeal to all States that have not yet done so to honour their financial commitments and to pay their assessed contributions as soon as possible.

According to the report of the ICTR, 25 persons will be on trial by the end of 2004, bringing the number of accused whose trials have been completed or are in process to 48. The ICTY has also continued to operate at full capacity, running six trials simultaneously, and has rendered judgements in a record number of trials and appeals proceedings.

Norway is pleased to be able to finance the construction of a fourth courtroom at the ICTR, which will further increase the Tribunal's trial capacity. That contribution is testimony of our continuing strong support for the Tribunal, which was underlined by Norwegian Prime Minister Bondevik's visit to the Tribunal on 11 October.

In implementing the completion strategies both Tribunals have resolved to concentrate on the most senior leaders suspected of bearing the greatest responsibility for the crimes within their jurisdiction. At the same time, the Tribunals have focused on transferring cases involving intermediate and low-level offenders to national jurisdictions. That is essential if the Tribunals are to complete their work by the deadline of 2010. It is equally important that they receive the full support and cooperation of the international community.

We are encouraged by the establishment of the War Crimes Chamber of the State Court of Bosnia and Herzegovina and the intent to commence domestic war crimes prosecutions in January 2005. We are also

pleased to hear that preconditions for referring cases to Rwandan courts have been established.

The Tribunals' increased cooperation with States, relevant institutions and non-governmental organizations is partly a result of the expanded activities and continuous development of the Tribunals' outreach programmes. Norway commends their efforts to strengthen national jurisdiction in their handling of war crimes cases and to provide accurate information about their activities in order to raise awareness of, and support for, their work.

Norway welcomes the unanimous adoption by the Security Council in March of a resolution reaffirming the need to intensify efforts to arrest and transfer the main fugitive indictees and bring them to trial — including Radovan Karadzić, Ratko Mladić and Ante Gotovina to the Yugoslav Tribunal and Felicien Kabuga to the Rwanda Tribunal. Unless the highest-ranking indictees are brought to justice, the main mission of the Tribunals will not be fulfilled. We applaud the Croatian authorities for their improved cooperation during the period under review, and we expect them to continue doing their utmost to ensure that General Gotovina is brought to The Hague.

All States must honour their international obligations to cooperate with regard to requests for access to archives and documents, surrendering indictees, providing full and effective assistance with regard to witnesses, giving financial and material support and, not least, providing practical assistance in the enforcement of sentences. The Norwegian Government has demonstrated its willingness to consider applications from the ICTY concerning the enforcement of sentences and, subsequently, in conformity with national law, to receive a limited number of convicted persons to serve their sentences in Norway. We encourage other States to prove their continued commitment to the work of the Tribunals through concrete action in this crucial field.

Let me conclude by thanking all the members of the Tribunals for their tireless efforts in carrying out our common task. I can assure you that we will stand by our long-term commitment to the successful completion of the missions assigned to the two Tribunals by the Security Council.

Ms. Moore (United States of America): The United States remains strongly committed to supporting the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). The United States appreciates the work of both Tribunals in bringing to justice those most responsible for serious violations of international humanitarian law.

With regard to the ICTY, we must all work together to ensure success of the Security Council-endorsed completion strategy that seeks to conclude investigations by the end of 2004, trials by 2008 and all work by 2010. To fulfil that programme, Serbia and Montenegro, Bosnia and Herzegovina and Croatia must fulfil their legal obligations to cooperate fully with the ICTY. Such cooperation includes not only access to archives and witnesses, but also apprehending all fugitive indictees within their territory and transferring them to The Hague, most notably Ratko Mladić, Radovan Karadzić, and Ante Gotovina. In that regard, we note that the Republika Srpska has failed to render a single fugitive indictee to the Tribunal and Serbia and Montenegro's cooperation has deteriorated to a standstill in the past 12 months. The United States and others in the international community have made clear that upholding international obligations to the ICTY is a prerequisite for further integration into the Euro-Atlantic community.

Serbia and Montenegro's lack of cooperation with the ICTY also undermines the confidence of the international community that it is willing and able to prosecute fairly and effectively perpetrators of war crimes and crimes against humanity. Until Serbia meets its cooperation obligations, we do not see domestic trials of ICTY indictees as a realistic option. We call on all authorities in Serbia, especially the Prime Minister as head of the Government, to act immediately to apprehend and render to The Hague all fugitives hiding in the country.

We continue to support efforts to help create the capacity for credible domestic trials of low- and mid-level war crime cases throughout the region. We note the significant work being done in Sarajevo in that regard and urge other States to contribute to this court either through direct financial assistance or in-kind contributions.

The United States has completed the transfer to the United Nations of all of its 2004 assessed contributions for the ICTY and is committed to significant financial and diplomatic support to the ICTY.

With regard to the ICTR, first we note and commend the increased pace of trials under the leadership of its President. We urge all States, especially the Democratic Republic of the Congo, the Republic of the Congo and Kenya, to fulfil their international obligations to apprehend and transfer to the Tribunal Felicien Kabuga and all other persons within their territory who have been indicted for war crimes by the ICTR. Those fugitive indictees continue to incite conflict in the Great Lakes region and must be actively pursued and apprehended, as called for repeatedly by the Security Council.

Mr. Awanbor (Nigeria): I would like to congratulate Judge Erik Møse, President of the International Criminal Tribunal for Rwanda (ICTR), and Judge Theodor Meron, President of International Criminal Tribunal for the Former Yugoslavia (ICTY), for their detailed reports on the activities of their respective Tribunals.

The Nigerian delegation appreciates the fact that the Tribunals are engaged in an historic and fundamental undertaking that is of great significance for humanity. They indeed reaffirm the collective resolve of Member States of the United Nations to ensure respect for international humanitarian law, fundamental human rights and the rule of law. By establishing those two Tribunals, the international community has resolved to put a stop to the perpetration of genocide and other heinous crimes against humanity.

My delegation is, therefore, delighted to note the significant progress made by both the ICTY and the ICTR in fulfilling their respective mandates concerning prosecution of persons responsible for serious violations of international humanitarian law in the former Yugoslavia since 1991 and in Rwanda between 1 January and 31 December 1994.

It is gratifying to note that the cooperation between the two Tribunals has been expanded and strengthened to include the Special Court for Sierra Leone and the International Criminal Court. The exchange of information and experience and the undertaking of joint activities by those two judicial bodies have contributed greatly to the strengthening of international criminal justice. In that regard, we believe the pioneer work of the Registrar of the ICTR in the area of restitutive justice has impacted positively on the Statute of the International Criminal Court.

It is our belief that the Rwanda Tribunal, through its work, has made a significant contribution to the enrichment of international jurisprudence and the rejection of the culture of impunity by replacing it with the values of accountability and the rule of law. For example, the Tribunal's decisions are already creating a substantial body of case law, which is being acknowledged by the ICTY and by national courts across the world. It is pertinent to mention that during the period under review, the ICTR released a second edition of its CD-ROM on basic documents and case law, covering the period from 2001 to 2002.

Accordingly, we commend the ICTR for having delivered 17 judgments involving 23 accused since the commencement of the first trial in January 1997. It is encouraging to learn that 20 accused have been convicted and three acquitted and that 25 persons will also be on trial by the end of this year, bringing the total number of accused persons to 48. We note that the trials of 16 current detainees are expected to start from 2005 onwards.

Concerning the completion strategy, it is gratifying that the ICTR is on schedule to complete all trials by 2008, in accordance with Security Council resolution 1503 (2003). It is proper that the Prosecutor would concentrate on those individuals who held leadership positions as bearing the gravest responsibility for the crimes committed, while those that have been classified as having participated in medium- to low-level crimes would be transferred to national jurisdictions for trial. We call for the cooperation of States to facilitate the arrest and transfer of the 17 indictees and 16 suspects who remain at large. For that purpose we further call for the strengthening of national legal systems in the effort to ensure a smooth transfer of identified individuals to national jurisdictions for trial.

We commend the Rwanda Tribunal for its efforts to enhance its operational efficiency through the management reforms and organizational restructuring undertaken in the immediate Office of the Registrar and other important sections of the Judicial and Legal Services Division, as well as the Division of Administrative Support Services. The re-amalgamation of the witnesses and victims support mechanisms of the Registry into a single section and remerger of the management of the United Nations Detention Facility with that of the Defence Counsel to form the Defence Counsel and Detention Management Section are

important changes. We commend the Registrar's determined efforts and initiative to promote better knowledge and awareness at various levels of civil society about the work of the ICTR, particularly, in Rwanda and the Great Lakes region. We appreciate the significant improvements in both the records-keeping and the dissemination of judicial documents at ICTR by the provision of an up-to-date database of the judicial records intended for public access through the Tribunal's web site.

Concerning the ICTY, we commend the important initiatives taken by the Tribunal to increase the efficiency and pace of its proceedings, which has enabled the Trial Chambers to examine six trials on the merits, two cases of contempt, two judgements on the merits, and nine sentencing judgements arising from nine guilty pleas. It is equally remarkable that the Appeals Chamber was able to dispose of 17 interlocutory appeals, four appeals from judgement and one request for review, during the period under review.

We note with satisfaction the internal reforms in ICTY, which are geared towards the Tribunal's completion of its work within the deadline. It is significant that the internal reforms included new amendments to Rules of Procedure and Evidence to ensure that all indictments confirmed by the Tribunal meet the Security Council's directives and to authorize Trial Chambers to refer a case to any jurisdiction in which the accused could have a fair trial, without the imposition of death penalty.

It is also noteworthy that the Tribunal continued preparing the States in the region for the prosecution of war crimes cases. In this regard, the concerted efforts to facilitate trial readiness by way of supporting legal reform, witness protection, detention facilities, capacity-building, seminars and training for personnel of domestic courts throughout the territories of the former Yugoslavia are steps in the right direction.

Finally, the ICTR and ICTY need the sustained support of the international community. In particular, adequate financial resources should be made available to them to complete their work within the stipulated time. Nigeria reaffirms its continued support for the work of the Tribunals in concert with the collective resolve to fight impunity and abuse of international humanitarian law.

Mr. Mwandembwa (United Republic of Tanzania): Like others who have spoken before us, my delegation welcomes the report of the Secretary-General, as contained in document A/59/183, and the ninth annual report delivered before this Assembly by Judge Erik Møse, the President of the International Criminal Tribunal for Rwanda. We would also like to thank Judge Theodore Meron, President of the International Criminal Tribunal for the Former Yugoslavia for the eleventh annual report of the ICTY. My delegation wishes to commend the work done by the ICTR during the period under review. Since July 2003, the ICTR has commenced 5 new trials involving 11 accused. Our experience over the past years indicates that the ICTR has increased its pace to deal with new cases.

My delegation welcomes the most recent version of completion plan that was submitted to the Security Council on 30 April 2004. It is our hope that the Tribunal will get the much needed resources to facilitate the implementation of the completion strategy. We call upon Member States to pay their contributions to the ad hoc tribunals in order to facilitate their work.

Turning to the ICTR, my delegation wishes to commend the ICTR Prosecutor, Mr. Hassan Bubacar Jallow, for his efforts to increase the number of prosecutions and to conduct speedy trials. Since he has taken office, the Prosecutor has drawn up an action plan for the completion strategy. Under his leadership, the tracking team has been revamped and greater cooperation has been sought from countries holding some of the fugitives. We also commend the Prosecutor, not only for his frequent and constant presence in Rwanda, the location of the crime and of the Investigation Division Office, but also for greater cooperation with the Rwandan Government.

As host country to the ICTR, Tanzania has worked closely with the Tribunal. We have fully implemented the Host Country Agreement and facilitated other needs through the Joint Facilitation Committee of senior representatives of Tanzania and the ICTR.

Now that the Tribunal is working towards completion of its work in the year 2008, my delegation wishes to invite the United Nations and the international community to locate some international judiciary body to the Tribunal facility after completion of the Tribunal's work. Much has been invested to put in place the infrastructure there, therefore it is only

reasonable to start thinking on how best to re-employ the facility for the benefit of international community.

Mr. Kamanzi (Rwanda): My delegation wishes to thank you for the opportunity provided by this meeting, at which we have heard statements from the Presidents of the International Criminal Tribunals for Rwanda and the former Yugoslavia. My delegation wishes to confine its remarks to the International Criminal Tribunal for Rwanda. We would like to thank and congratulate the President of the ICTR, Judge Erik Møse for his statement, and we welcome his confirmation that the completion strategy is on course. The Rwanda Government would like to assure Judge Møse and the General Assembly of our continued support for the Tribunal.

This November, we mark 10 years since the Security Council adopted the resolution establishing the ICTR. We recognize that this provides a good opportunity for us to take stock and make an assessment of the Tribunal's performance so far. We should also ask ourselves what needs to be done to ensure that the Tribunal continues to improve its efficiency and effectiveness so that it can complete its work within the agreed timeframe.

Since it began its work, the ICTR has completed trials of 9 individuals. The trials of a further 11 have been completed at the first instance and await appeal. The trials of 25 individuals are on-going, while a further 17 individuals are awaiting trial. Eight individuals whom the ICTR has targeted for prosecution, including one of the key masterminds and financiers of the genocide, Felicien Kabuga, remain at large. We call upon all Member States to cooperate with the Tribunal to ensure that all indictees face justice.

Although we recognize and commend the Tribunal for its work so far, we should point out that 10 years ago, when the ICTR was established, we had hoped that by now more progress would have been achieved. We note that, originally, the Office of the Prosecutor (OTP) had identified more than 300 "big fish" for prosecution before the Tribunal completed its work. Today, the completion target of the Tribunal is significantly more modest. If it apprehends and puts on trial the suspects still at large, and completes the trials of the suspects still awaiting trial and those whose trials are still in progress or awaiting appeal, the Tribunal will have completed the trials of 77 individuals when it concludes its work. Given that the trials of only 20 of these individuals have been completed at the first instance or appeal in the last 10 years, it is imperative that the Tribunal should work effectively and that it be given the requisite support by the General Assembly to complete its remaining workload in the next six years.

My Government recalls that the transfer of cases from the Tribunal to Rwandan jurisdiction was envisaged as central to the objective of bringing the perpetrators of the genocide to justice when the ICTR was established 10 years ago. Although the process of transferring cases has not yet begun, we hope that it very soon will. We stand ready to facilitate the process wherever possible.

My Government also recognizes that transferring at least 40 cases to Rwanda for trial may be the only realistic way for the Tribunal to complete its work within the time frame outlined in the completion strategy.

With respect to the concern expressed about the fact that the death penalty remains on Rwanda's statute books, we would like to take this opportunity to reiterate our assurances that the death penalty will not be exercised with respect to cases transferred from the ICTR.

We would also like to note that Rwanda will require support for training its investigators, lawyers and judges, as well as upgrading its court facilities and infrastructure, in order to handle the trials with the highest level of professionalism and efficiency. This assessment is supported in the ninth annual report of the Tribunal. My Government is in discussion with the Tribunal on the matter and we expect that it will be a feature of our discussions under this agenda item next year.

My Government appreciates the support of the international community, which enabled it to construct a detention facility in Rwanda that meets international standards. We expect that convicts will now serve sentences in Rwanda. That will contribute to the process of reconciliation, healing and eradicating the culture of impunity, as the people will now be able to make a direct link between crimes committed and punishments rendered.

The Rwandan Government welcomes the progress made in improving the overall efficiency and

effectiveness of the Tribunal over the past 12 months. The people of Rwanda continue to expect the Tribunal to deliver justice to the authors and planners of the 1994 genocide. Justice is a central and indispensable component of the process of reconciliation and national renewal in Rwanda. We therefore consider it vital for the Tribunal to succeed in the tasks that we, as States Members of the United Nations, have set out for it.

My Government would like once again to renew its commitment to working in support of the three organs of the Tribunal, as we have done over the past 10 years.

We are concerned that late payment or non-payment of assessed contributions by Member States to the Tribunal has resulted in serious financial difficulties, leading to recruitment freezes and a slowdown in its work. This slowdown comes at a time when we expect the Tribunal to be working steadily towards implementing its completion strategy. It is imperative that Member States make their contributions on time, in full and without conditions if we are to realize the goals outlined in the completion strategy.

Finally, my delegation would like to bring to the attention of the General Assembly the plight of many of the survivors of the 1994 genocide, who live in conditions of enormous hardship. Most genocide survivors, particularly orphans, widows and victims of sexual violence, are poorer and more vulnerable today than they were 10 years ago. In particular, the Assembly should note the plight of thousands of women who contracted HIV as a result of being raped during the genocide. While the people who either raped them or gave the orders for them to be rape[illegible] receive care and treatment at the detention facility in Arusha, the victims have received no such care, and as a result many have since died of AIDS. We urge the Assembly to recognize the seriousness of the condition of such people and to support a draft resolution to assist the survivors of the Rwanda genocide, which will be introduced in plenary meeting during this session by the representative of Nigeria on behalf of the States members of the African Union.

Ms. Katungye (Uganda): As we collectively reflect upon the ninth annual report of the International Criminal Tribunal for Rwanda (ICTR) and the eleventh report of the International Tribunal for the Former Yugoslavia (ICTY), eloquently introduced by the respective Presidents of the Tribunals, it is incumbent upon us to take stock of the steps the international community has taken to redress the grave mistakes that enabled such horrific tragedies to happen in the first place. In so doing, we must evaluate both the successes and the failures of the two International Tribunals as holistically and frankly as possible. [illegible] do any less would be to dishonour the memory o[illegible] the victims of genocide and other grave crimes against humanity.

We would like to express our sincere condolences on the passing of Judge Richard May, whose invaluable contribution to the work of the Tribunal and other bodies lives on.

The role of international tribunals in the field of international criminal justice is a vital one. It behoves us to strengthen that role in the context — and in the interests — of international peace and justice, both of which are prerequisites for stable communities and for development. Moreover, the records obtained from the tribunals are an invaluable resource that should be used to forge healing and reconciliation among the peoples of Rwanda, the Balkans and affected neighbouring countries. They also contribute significantly to the rule of law and justice globally.

I shall refer first to the ninth report of the Rwanda Tribunal. Last year in the Security Council we heard about how the Tribunal for Rwanda was plagued by lack of sufficient funding, inadequate staff and trials that were unduly delayed, to the chagrin and consternation of the victims and their families, as well as of the international community.

Having noted the negative impact that insufficient funding and staffing has caused in the past, we believe that the fact that the Controller had to freeze recruitment of new staff in the period under review represents a setback.

Failure by Member States to pay their contributions to the Tribunal is not new and may be the result of a genuine inability to do so on the part of the affected States, especially those facing development challenges. The Tribunal must not be allowed to suffer as a result of that inadequacy. New and creative ways could, perhaps, be found to meet those needs. We cannot overemphasize the need to provide the Tribunal with sufficient resources to allow it complete its cases within the allotted time frame.

The report also refers, in paragraph 68, to eight defence counsel being withdrawn "for reasons constituting exceptional circumstances". Perhaps, in the spirit of transparency and to help us to draw important lessons therefrom, it might have been useful for the report to expound on that further. Nonetheless, having heard this morning from President Erik Møse, it is clear that this situation needs urgent redress.

On a happier note, it is heartening to see that in the same period — that is, from 1 July 2003 to 30 June 2004 — there has been significant progress in the handling of cases, from new trials to trials in progress and completed cases, as reflected in the report.

However, even as we laud this progress, we need to point out that the figure of 48 accused persons being held accountable may appear less significant in a situation where hundreds of thousands of innocent men, women and children were brazenly killed. On the other hand, we, as the international community, must commend the Security Council for its intervention to ensure that by 2008 the Tribunal will have completed all its trials. To this end, we urge all States, which are required to do so, to arrest and transfer all the indictees and suspects who are still at large. Further, we need to assist the Prosecutor, Mr. Hassan B. Jallow, in his efforts to transfer the individuals identified by him for trial in national jurisdictions. We also welcome his appointment of a Completion Strategy Monitoring Committee and recognize the positive impact engendered by the very cooperative spirit existing between his Office and the Rwandan Government.

Yet another significant success of the Tribunal has been the adoption of Security Council resolution 1512 (2003), which allowed the use of additional ad litem judges. The benefits are self-evident with the commencement of new trial proceedings, which in turn have resuscitated the hopes of the victims. This impetus must be expanded, and we are glad that the Tribunal is already in the process of doing so.

The Government and people of Rwanda have demonstrated through their legal system, the "Gacaca" courts, that they are capable of handling some of the genocidaires within their national jurisdiction. We, therefore, have no hesitation in recommending that those persons found to have been medium- to low-level participants in the 1994 genocide be subjected to Rwanda's national jurisdiction. In addition, we urge that the Rwandan Government be assisted, when necessary, to strengthen their judicial system.

We have noted the appeal by the Tribunal for resources to enable it engage the services of uncertified translators, with a view to meeting the challenges posed by the increased need for translation during trials. In our view, this is a fair request and should be answered in the affirmative. It is also a reasonable request, as uncertified translators will not only be cheaper but also faster to hire. This will lead to speedier trials, while adhering to the principles of natural justice. Lack of adequate translation not only detracts from the rights of the victims and defendants but also slows down the implementation of justice.

We believe the Tribunal is cognizant of the need for the Rwandan people to perceive that justice is indeed being meted out. We see this from the efforts of its External Relations and Strategic Planning Section to reach out, involve and regularly inform the Rwandan populace of the trials as they develop and are conducted.

Likewise, we would like to thank the International Criminal Tribunal for the Former Yugoslavia (ICTY) for the tremendous strides it has taken in overcoming the obstacles it has faced to achieve progress.

We need to address the appeals made by President Theodor Meron in his statement this morning. Furthermore, we need to support the important reforms initiated by the ICTY, in conformity with its commitment to the completion strategies and the objective of conforming to the requirements of Security Council resolutions 1503 (2003) and 1534 (2004).

Both the ICTR and the ICTY, together with the International Criminal Court and the Special Court for Sierra Leone, are evidence that the international community is determined to bring to justice the perpetrators of genocide, war crimes and grave crimes against humanity. Therefore, we think it all the more important to remember the old adage that an ounce of prevention is better than a pound of cure, and we have to put in place early warning systems that alert the world about events that lead to such crimes. We can no longer afford to sit on the fence in the wake of genocide or other such grave crimes.

Finally, it is apparent from the reviews that both Tribunals have made visible improvements in the period under review and continue to seek partnerships with interested countries and international organizations to improve even more. For this, they must be congratulated.

The lesson to be drawn from all this is that never again should the international community ignore the developments of genocide while it is being carried out against a people. It is costly, not only in terms of human suffering and societal trauma, but also in terms of the time, money and resources spent on trying to repair the damage. Moreover, only a fraction of the damage can indeed be redressed, irrespective of our best intentions and efforts.

Trials can be very lengthy, and if the victims sense that they are being hampered, they will feel doubly betrayed. The old adage that justice delayed is justice denied is very pertinent.

In conclusion, the recommendations made in both reports are quite modest and pertinent and should, therefore, be addressed. In so doing, the victims will receive some form of respite and healing, while the perpetrators are finally brought to account for their heinous crimes.

The Acting President: We have heard the last speaker in the debate for this meeting. May I take it, therefore, that it is the wish of the General Assembly to conclude its consideration of agenda items 50 and 51?

It was so decided.

The meeting rose at 12.40 p.m.